IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FIRST DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 19977 of 2004

Between:

Cherukuri Satyanarayana S/o Sathyam
R/o 4-80, President Street, Bommuru, Rajahmundry, E.G. District

..... PETITIONER

AND

1 The Addl. Commissioner of Commercial Taxes (Legal) (FAC), O/o Commissioner (CT) Commercial Taxes, Station Road, Nampally, Hyderabad
2 The Appellate Dy. Commissioner of Commercial Taxes, Visakhapatnam
3 The Commercial Tax Officer, Rajahmundry
4 The Dy. Commercial Tax Officer (FAC), Alcot Garden Circle, Rajahmundry

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, order or a direction, preferably one in the nature of Writ of Mandamus, declaring the action of the 1st respondent in rejecting the Revision (Stay) Application in his proceedings in CCT's Ref. L.V(3)/2730/2004, dated 7-10-2004 as illegal, arbitrary and unconstitutional besides being unasutainable in the facts of the case

Counsel for the Petitioner:MR.A.K.JAISWAL

Counsel for the Respondents: GP FOR COMMERCIAL TAX

The Court made the following

O R D E R (Per the Hon'ble Sri Justice Bilal Nazki):

Heard learned Counsel for the parties. With their consent, the Writ Petition is disposed of at this stage.

The controversy is that pending appeal, application for stay was dismissed by the competent authority. We have gone through the record and heard learned Counsel for the parties. We feel that the interest of justice would have been met if stay was granted pending appeal, subject to deposit of one-third of the liability. Therefore, we set aside the order of the authority and direct that one-third of the disputed tax liability shall be paid by the petitioner, within a period of six weeks, and we feel that there could not be any assessment for the period 2005-2006. For six weeks, there shall be an unconditional stay and the stay shall continue till disposal of the appeal, provided the amount is deposited within six weeks. However, if the petitioner has already paid any amount towards the disputed tax, while calculating the one-third amount, the amount paid by the petitioner shall be given credit to.

The Writ Petition is disposed of accordingly. No order as to costs.

_____

(BILAL NAZKI, J)

1st November, 2004.

_____

(S.ANANDA REDDY, J)

Note:Issue wire at party's cost

B/o

vrn

To

1 The Addl. Commissioner of Commercial Taxes (Legal) (FAC), O/o

Commissioner (CT) Commercial Taxes, Station Road, Nampally, Hyderabad
2 The Appellate Dy. Commissioner of Commercial Taxes, Visakhapatnam
3 The Commercial Tax Officer, Rajahmundry
4 The Dy. Commercial Tax Officer (FAC), Alcot Garden Circle, Rajahmundry

5 Two C.Cs to the Government Pleader for Commercial Taxes,

High Court of A.P, Hyderabad (OUT)

6 Two C.D copies